

**RAILROAD COMMISSION OF TEXAS
FORMAL COMMISSION ACTION
JULY 22, 2004**

Pursuant to lawful notice, the Commission held an open meeting at 1701 N. Congress Avenue, in Room 1-111, Austin, Texas, on the 22nd day of July 2004 commencing at 9:30 a.m. Chairman Victor G. Carrillo and Commissioners Charles R. Matthews and Michael L. Williams were present. Chairman Carrillo presided.

- I. The Commission convened for the purpose of conducting the monthly Oil and Gas Statewide Hearing. The Commission approved and signed the order setting the lawful market demand for the month of August 2004.
- II. The Commission began consideration of matters falling within the Railroad Commission's Safety Division regulatory jurisdiction.
 - A. In consideration of Rail Docket 003765ZZCL, the Commission approved the application of General Motors Corporation to deviate from the terms of the Railroad Clearance Statute at its automotive assembly plant in Arlington, Texas. Approval was recommended by Staff Attorney Debra Ravel.
- III. The Commission began consideration of matters falling within the Railroad Commission's Gas Services Division regulatory jurisdiction.
 - A. The Commission deferred until the next conference, consideration of Gas Utilities Docket No. 9400, the Statement of Intent filed by TXU Gas Company to change rates in the company's statewide gas utility system.
 - B. In consideration of Gas Utilities Docket No. 9469, the Commission denied the motion for rehearing filed regarding the Statement of Intent filed by CenterPoint Energy Entex to change rates in the environs of the City of Houston. Denial of the motion was recommended by Examiner Gene Montes.

- C. The Commission considered Gas Utilities Docket No. 9465, the Appeal of Texas Gas Service Company from the action from the Cities of Port Neches, Nederland and Groves, Texas. Commissioner Williams made a motion to disagree with the cost of equity percentage that is in the Proposal for Decision which is currently at 10.3% and change it to 10.75%. The motion died for lack of a second. Chairman Carrillo made a motion to not accept the examiner's recommendation to use the 30-year weather normalization but instead use the 10-year period for weather normalization factor. Commissioner Williams seconded the motion. Before calling for the formal vote, Mr. Dick Nugent, Mayor of Nederland made comments on behalf of the affected cities. Mr. Alan Holman, representing Texas Gas Service was present but chose not to make comments. The Commission voted (3-0) to approve the examiner's recommendation with the amendment regarding the weather normalization factor. Examiner Gene Montes stated he would prepare the revised order and present it to the Commission for signatures before the meeting was adjourned.
- IV. The Commission began consideration of matters falling within the Railroad Commission's Oil and Gas regulatory jurisdiction.
 - A. The Commission took the following action on applications appearing on the protested docket of the Oil and Gas Division:
 - 1. In consideration of Docket No. 09-0236695, the application of Hydro-FX, Inc. to dispose of oil and gas by injection into a porous formation not productive of oil or gas, Hydro-FX Lease, Well No. 1, Newark, East (Barnett Shale) (65280200) Field, Wise County, Texas, the Commission approved the application as recommended by Examiner Margaret Allen.
 - 2. In consideration of Docket No. 06-0233684, the enforcement action against Chaparral Operating, Inc. for violations of Statewide Rules on the Chew, W.D. -A- (01488) Lease, Well Nos. 3, 4 and 5, Rodessa (Dees) Young Field, in Cass County, Texas, the Commission ordered Chaparral to plug Well No. 5 and pay an administrative penalty of \$10,000. This action was recommended by Examiner Scott Petry.
 - 3. In consideration of Docket No. 06-0234259, the enforcement action against Chaparral Operating, Inc. for violations of Statewide Rules on the Willis Unit (05968) Lease, Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W and 1022W, Rodessa (Dees Young) Field, in Cass County, Texas, the Commission ordered that Chaparral plug the subject wells and pay an administrative penalty in the amount of \$27,250. This action was recommended by Examiner Scott Petry.
 - B. The Commission took action on applications appearing on the Oil and Gas Unprotested Consent Agenda, Agreed Enforcement Orders, and Master Default Orders.

C. Rules Notebook: Deputy General Counsel Polly McDonald

1. The Commission approved publishing in the *Texas Register* for a 30-day public comment period an amendment to 16 Tex. Admin. Code §3.80 (Statewide Rule 80) relating to Commission Forms, Applications and Filing Requirements.
2. The Commission considered the review of all rules in 16 Tex. Admin. Code Chapter 3, Oil and Gas Division, pursuant to Tex. Gov't Code, §2001.039 (O&G Docket No. 20-0239479), and non-substantive amendments to correct typographical errors; citations to Commission rules; and the names of Commission divisions, sections, or groups and other state agencies in the following rules: §3.6, Application for Multiple Completion; §3.9, Disposal Wells; §3.26, Separating Devices, Tanks, and Surface Commingling of Oil; §3.28, Potential and Deliverability of Gas Wells To Be Ascertained and Reported; §3.34, Gas To Be Produced and Purchased Ratably; §3.36, Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas; §3.46, Fluid Injection into Productive Reservoirs; §3.49, Gas-Oil Ratio; §3.52, Oil Well Allowable Production; §3.55, Reports on Gas Wells Commingling Liquid Hydrocarbons before Metering; §3.56, Scrubber Oil and Skim Hydrocarbons; §3.81, Brine Mining Injection Wells; §3.84, Gas Shortage Emergency Response; §3.93, Water Quality Certification Definitions; §3.95, Underground Storage of Liquid or Liquefied Hydrocarbons in Salt Formations; §3.97, Underground Storage of Gas in Salt Formations; §3.98, Standards for Management of Hazardous Oil and Gas Waste; §3.106, Sour Gas Pipeline Facility Construction Permit; §4.605, Identification of Equipment Contaminated with NORM; and §4.632, Penalties and Certificate of Compliance (O&G Docket No. 20-0239480). The Commission approved publishing these amendments in the *Texas Register* for a 30-day public comment period.
3. The Commission deferred consideration of the Gas Reliability Infrastructure Program (GRIP) Rulemaking for further review.
4. The Commission approved the notice of completion of the review of rules in Chapter 11 relating to Surface Mining and Reclamation Division and all rules in Chapter 12 relating to Coal Mining regulations.

- V. The Commission began consideration of matters authorized by law including the administration, budget, procedures and personnel of the following divisions as presented by the division director or other authorized personnel.

OFFICIAL MINUTES – JULY 22, 2004

- A. Office of General Counsel: General Counsel Lindil Fowler
 - 1. The Commission received a report on the status of pending Commission rulemakings.
- VI. At 10:40 a.m., the Commission recessed until 2:00 p.m. at which time the Commission would reconvene in the 12th floor executive conference room to continue consideration of matters authorized by law.
- VII. At 2:00 p.m., the Commission reconvened in the 12th floor executive conference room to continue consideration of matters authorized by law.
 - A. The Commission reviewed the revised final order in Gas Utilities Docket No. 9465, the Appeal of Texas Gas Service from the action of the Cities of Port Neches, Nederland and Groves, Texas. The Commission approved and signed the revised order as presented.
- VIII. With no further business to come before the Commission at this time, the conference was adjourned at 2:03 p.m.